

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, FOR  
THE USE OF ANDERSON  
EXCAVATING CO., a Nebraska  
corporation;

8:19CV303

vs.

KIEWITPHELPS, a Joint Venture;  
TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA, a Connecticut  
Corporation (Bond No. 041-SB-  
105826131); and TRAVELERS  
INDEMNITY COMPANY, a Connecticut  
Corporation (Bond No. 041-SB-  
105826131);

**FINAL PROGRESSION ORDER  
(AMENDED)**

Defendants.

IT IS ORDERED that the parties' stipulated motion to amend progression order is granted (Filing No. 66). The final progression order is amended as follows:

- 1) The trial and pretrial conference will not be set at this time. The status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held as scheduled on July 20, 2021 at 11:00 a.m. with the undersigned magistrate judge by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadlines for complete expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-

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<sup>1</sup> While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

On issues which a party bears  
the burden of proof: May 26, 2021.  
Rebuttal: July 16, 2021.

- 3) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is August 13, 2021.
- 4) The deadline for filing motions to dismiss and motions for summary judgment is August 27, 2021.
- 5) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is August 27, 2021.
- 6) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 7) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 8) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 30th day of April, 2021.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge